

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

SKY KING SATELLITE, INC.,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	2:23cv175-MHT
)	(WO)
ELITE TECHNICIAN)	
MANAGEMENT GROUP, LLC,)	
)	
Defendants.)	

ORDER

The allegations of the notice of removal are insufficient to invoke this court's removal jurisdiction under 28 U.S.C. §§ 1332 (diversity of citizenship) and 1441 (removal). To invoke removal jurisdiction based on diversity, the notice of removal must distinctly and affirmatively allege each party's citizenship. See *McGovern v. American Airlines, Inc.*, 511 F. 2d 653, 654 (5th Cir. 1975) (per curiam).^{*} The

^{*} In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit Court of Appeals adopted as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

allegations must show that the citizenship of each plaintiff is different from that of each defendant. See 28 U.S.C. § 1332(a).

The removal notice is insufficient because it does not properly indicate the citizenship of corporate plaintiff Sky King Satellite, Inc. In order to plead the citizenship of a corporation, the notice of removal must allege both the states of incorporation and the state where the corporation has its principal place of business. See 28 U.S.C. § 1332(c)(1); *American Motorists Ins. Co. v. American Employers' Ins. Co.*, 600 F.2d 15, 16 and n.1 (5th Cir. 1979) (per curiam). Here, the notice of removal fails to allege the principal place of business.

The removal notice is also insufficient because it does not properly indicate the citizenship of a party that is a 'limited liability company': Elite Technician Management Group, LLC ("ETMG"). "[L]ike a limited partnership, a limited liability company is a citizen

of any state of which a member of the company is a citizen." *Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C.*, 374 F.3d 1020, 1022 (11th Cir. 2004). The notice must therefore allege "the citizenships of all the members of the limited liability company." *Id.*

Where, as here the LLC has a member who is an individual, the complaint must properly allege the citizenship, not merely the residence, of the individual, as an allegation that a party is a "resident" of a State is not sufficient to establish that a party is a "citizen" of that State. See *Travaglio v. Am. Exp. Co.*, 735 F.3d 1266, 1269 (11th Cir. 2013) ("Residence alone is not enough.") (citing *Denny v. Pironi*, 141 U.S. 121, 123 (1891); *Taylor v. Appleton*, 30 F.3d 1365, 1367 (11th Cir.1994) ("Citizenship, not residence, is the key fact that must be alleged in the complaint to establish diversity for a natural person.")). "Citizenship is equivalent to 'domicile' for purposes of diversity jurisdiction[,"]

... [a]nd domicile requires both residence in a state and 'an intention to remain there indefinitely....'" Travaglio, 735 F.3d at 1269 (quoting *McCormick v. Aderholt*, 293 F.3d 1254, 1257 (11th Cir. 2002)).

It is therefore the ORDER, JUDGMENT, and DECREE of the court that the defendant has until July 11, 2023, to amend the notice of removal to allege jurisdiction sufficiently, see 28 U.S.C. § 1653; otherwise this lawsuit shall be remanded to state court.

DONE, this the 27th day of June, 2023.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE